

(Draft)
COURT PROCEDURES MANUAL
FOR
THE UNITED STATES DISTRICT COURT



FOR
THE UNITED STATES VIRGIN ISLANDS
BANKRUPTCY DIVISION
AUGUST 25, 2006

Court Procedures Manual

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Address Appendix for Government Agencies addresses can be found at
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PART I.
GENERAL COURT PROCEDURES
(GCP)

GCP #1 DIVISION OF BUSINESS BETWEEN ST. THOMAS AND ST. CROIX

The United States District Court for the United States Virgin Islands Bankruptcy Division is a member of the Third Circuit. The Virgin Islands has two divisions, Division of St. Thomas/St. John and the Division of St. Croix. The St. Thomas/St. John divisional clerk's office handles bankruptcy cases for both divisions.

The Clerk of the Bankruptcy Court for the
Division of St. Thomas/St. John is located at:
5500 Veteran's Drive, RM 310
Charlotte Amalie, St. Thomas 00802-6424
Telephone: 340-774-8310
Fax: 340-776-5615

The courthouses and judges chambers are located at:

District Court of the Virgin Islands
St. Thomas/St. John Division
5500 Veterans Drive, Rm 310
St. Thomas, VI 00802

District Court of the Virgin Islands
St. Croix Division
3013 Estate Golden Rock, Suite 219
St. Croix, VI 00820

GCP #2A PAYMENT OF FILING FEES

All fees must be paid by Check, Money Order or Cash. Certain pleadings require fees be paid by two separate checks or money orders. Please see www.vid.uscourts.gov under Court Fees for a list of all fees that must be paid by two separate checks or money orders. All checks and money orders are to be made payable to the Clerk of the Court.

Payment is required to complete the process of filing a document electronically. If payment is not received by the close of the next business day, the court will take necessary action which may include striking the pleading from the record.

GCP # 2B DISMISSAL FOR FAILURE TO SUBMIT LOCAL FORM NO. 1

A bankruptcy case shall be dismissed pursuant to Local Rule 1017-2, Dismissal of Bankruptcy Case for Deficient Filing, if Local Form No. 1, the Declaration of Electronic Filing, or Local Form No. 1A, Declaration Re: Electronic Filing of Petition, Schedules, and Statements for Individual Debtor Not Represented by Counsel, is not submitted within fifteen (15) days of the date the petition is filed. At any time before the date set for entry of an order of dismissal, the debtor (1) may file a motion requesting a hearing at which debtor shall show cause why the case should not be dismissed for failure to file Local Form No. 1 or Local Form No. 1A or (2) may file a motion and proposed order seeking an extension of time.

GCP # 3. EXCLUSION OF PERSONAL DATA IDENTIFIERS

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In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2003, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the Court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court.

A. Social Security Numbers. If an individual's Social Security number must be included in a pleading, only the last four digits of that number should be used.

B. Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

C. Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used.

D. Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

A. file an unredacted version of the document under seal, or

B. file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the document or the reference list document shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each pleading for compliance with this rule.

Explanatory Comment

In September 2001, the Judicial Conference of the United States adopted a policy regarding

privacy and public access to electronic case files (the privacy policy). This rule furthers the Judicial Conference's policy.

Filers should also exercise caution when filing documents that contain the following:

1. any personal identifying number, such as a driver's license number;
2. medical records, treatment and diagnosis;
3. employment history;
4. individual financial information; and
5. proprietary or trade secret information.

GCP # 4 DOCUMENTS FILED ON DISK OR PAPER

Electronic Filing is mandatory in the United States District Court for the United States Virgin Islands, Bankruptcy Division pursuant to Interim Local Rule 5005-1.

The Clerk shall accept documents filed on disk in a Portable Document Format (PDF). Submission of documents on disk or scanned in the Clerk's Office constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court. The Clerk shall make a document scanner available in the Clerk's Office. Paper documents prepared or submitted for filing by attorneys must be scanned by an attorney or his agent (the "filing attorney") at the Clerk's Office.

Documents that require original signatures must be maintained in paper form by the filing party until six (6) years after all time periods for appeals expire and all appeals have been concluded. On request of the Court or party in interest, the filing party must provide the original documents for review. Failure to maintain documents for the specified period shall subject the Filing User to sanctions including, without limitation, disgorgement of fees. This requirement also applies to any document for which statute, rule, or Court order requires an original signature.

The Clerk shall transfer documents submitted by disk or scanned by the filing attorney into the CM/ECF system and make a corresponding docket entry. The date of filing shall be the date the disk or scanned document is received by the Clerk. The official record is the electronic recording of the document as stored on the CM/ECF system. The Clerk shall discard the disk.

Exhibits and other attachments to pleadings shall not exceed ten (10) pages in length. Exhibits attached to the following pleadings are not subject to the ten-page limitation: Application for Compensation and Reimbursement, Trustee's Final Report and Account, Plan of Reorganization, and Disclosure Statement. A summary not exceeding ten (10) pages may be filed for exhibits and Attachments. In lieu of the summary or in lieu of the entire document, a one-page Document and Loan History Abstract conforming to Local Form No. 27 shall be filed. All abstracts, exhibits and exhibit summaries must be filed as separate documents. The party filing a pleading containing a summary of an exhibit or the Document and Loan History Abstract shall have a paper copy of the entire document at any hearing that is reasonably expected to pertain to

the pleading. The party filing a pleading containing a summary or abstract shall, upon request of any party in interest, provide a copy of the entire exhibits.

Filing Attorneys shall comply with the Clerk's Procedures for Scanning Documents. Bankruptcy petitions scanned at the Clerk's Office shall be accompanied by a mailing matrix on disk that complies with the Clerk's Special Requirements for Mailing Matrixes.

Documents on disks must be filed in a Portable Document Format (PDF). Documents must be filed in a format that allows the Court to perform a full text search, except that documents received by the filing party from an outside source may be scanned into a PDF format and filed as document that will not be fully text searchable. For example, a motion drafted by the filing attorney must be fully text searchable, but attachments to the motion such as mortgages, deeds, and other supporting documentation provided to the attorney by his client may be scanned.

Only matters pertaining to one bankruptcy case or adversary proceeding shall be filed on a disk. Bankruptcy petition documents on disk shall be filed on one disk as separate PDF files as follows: (A) one PDF file containing the petition together with schedules, statements, and the Attorney Fee Disclosure Statement, if any; (B) one PDF file containing the Chapter 13 Plan, if any; (C) one text file containing the names and addresses of creditors and other parties in interest filed in compliance with the Clerk's Special Requirements for Mailing Matrixes.

Documents filed on disk that require signatures must include the typed name of the signatory preceded by "/s/" in the space where the signature would otherwise appear.

When a settlement agreement or similar document that requires signatures from more than one party is filed electronically, the filing party must check the Judge's procedures on the Court's Website in order to determine if the Judge assigned to the case has specific instructions for filing a document of this nature. If the Judge assigned to the case does not have specific instructions, then the document bearing all the necessary signatures: (1) may be scanned; (2) may be filed in a PDF format provided that the filing user certifies that all parties whose signatures are required have consented to the document and endorsed the filing; or (3) in any other manner approved by the Court. Local Form No. 26, Settlement and Certification of Counsel, must be filed with the document attached.

Orders must be filed as a separate PDF document when a motion, application, objection or other request for relief is filed on disk or scanned at the Clerk's Office.

A Certificate of Service filed as part of a motion, application, objection or other request for relief should be filed as part of the motion in one PDF document.

The signature of the debtor(s) authorizing the filing of the bankruptcy case shall be accomplished by filing an original executed paper version of the Declaration Re: Electronic Filing, Local Form No. 1, at the time the petition is filed. Both debtors must sign the authorization when a joint petition is filed. The petition may be dismissed if the declaration is not filed.

Submission of the bankruptcy petition, schedules, and statements in accordance with this Court Procedure shall be deemed in compliance with the Electronic Case Filing Procedures reference in Local Form #1.

In accordance with Local Rule 5005-3, only paper documents shall be filed when the Court has approved filing the document under seal. The paper documents which have been placed under seal shall be delivered to the Clerk. The sealed documents will not be scanned into the CM/ECF system. The Clerk will retain the paper documents according to the Court's retention policy.

GCP #5A DUTY TO MAKE PAYMENTS, FILE TAX RETURNS, FILE REPORTS, AND PAY TAXES IN CHAPTER 11

A. The trustee or debtor-in-possession in a Chapter 11 case shall keep current and pay when due any debt which has arisen since the entry of the order for relief, including any debt arising from rentals or other money due on account of real estate leases, provided, however, that any debt for utility service shall be paid not later than the due date.

B. The trustee or debtor-in-possession in a Chapter 11 case shall:

1. timely file all federal and territorial tax returns with the applicable taxing bodies during the pendency of the bankruptcy case;
2. file copies of the most recent balance sheet and profit and loss statement of non-individual debtors with the Clerk;

GCP # 5B LANDLORD PAYMENTS

A rent deposit as required by 11 U.S.C. §362 tendered with the original petition must be paid to the lessor not the Clerk and delivered to the Clerk of the Court not later than the next immediate business day following the day the petition is filed.

GCP #6 REQUESTS FOR TRANSCRIPTS

A. Form of Request: Parties may request transcripts or an audio recording on cassette or compact disk by either filing a transcript request with the Clerk on a form available from the Clerk and the Court's Website or by verbal request made to the court stenographer or the Electronic Court Reporter Operator ("ECRO"), as applicable. If a verbal request is made, the party requesting the transcript must also provide the court stenographer or the ECRO with a written request containing the details of the request and payment as described below the request will be processed.

B. If the request is in connection with an appeal, Local Rule 8006-1 also must be adhered to.

C. Contents of Request: The requesting party shall provide the court stenographer or the ECRO with:

1. the name of the case,
2. the bankruptcy and motion or adversary numbers,
3. the date of the hearing,
4. the name of the Judge who heard the matter, and
5. the requesting party's name, telephone number, and mailing address and/or email address and/or fax number.

D. Payment: The court stenographer or the ECRO shall estimate the cost of the transcript and the party requesting the transcript shall provide appropriate payment before the transcript request is processed. Checks written on a firm's business account will be accepted. Pro se litigants must submit payment by money order or certified cashier's check.

E. Release of Transcript to Requesting Party: When the completed transcript is received by the court stenographer or the ECRO, the court stenographer or the ECRO shall notify the requesting party that the transcript is available and shall notify the requesting party whether the actual cost of the transcript exceeded the estimate. If the actual cost of the transcript exceeded the estimate, the transcript will not be released until the additional payment is made. If the actual cost is less than the amount paid, the excess amount will be refunded.

F. Expedited Transcripts: If the requesting party wants an expedited transcript the requesting party shall notify the court stenographer or the ECRO at the time the transcript is ordered. There is an extra cost associated with expedited transcripts.

GCP # 7 GOVERNMENT PROOF OF CLAIM DEADLINE DATE

The Clerk shall set a government deadline for filing proofs of claim in each bankruptcy case filed in the U.S. Virgin Islands. The deadline will be included on the docket of the case. When proofs of claim are required to be filed in the case, parties in interest will be notified of the bar date in the notice that sets the date of the §341 Meeting (i.e., the first meeting of creditors).

The government proof of claim date shall not be modified when a case is converted to a different Chapter of the Bankruptcy Code. Governmental entities shall file proofs of claim within the greater of 180 days from the date the order of relief was first entered in the case or the proof of claim deadline date set for other creditors after the conversion.

The government proof of claim date shall not be modified when the Chapter 7 Trustee files a Notice of Assets and the Clerk notifies parties to file claims. Governmental entities shall file proofs of claim within the greater of 180 days from the date the order of relief was first entered in the case or the proof of the claim deadline date set for other creditors by the Clerk.

GCP # 8 CASH COLLATERAL GUIDELINES

A. Any consensual cash collateral order must contain the following provisions:

1. A statement that:

- a. there has been compliance with service requirements;
- b. the secured creditor asserts priority lien in the cash collateral, together with a specific identification of the assets that are generating or will generate cash collateral (i.e., cash on hand, proceeds of inventory sales, etc.), and the amount of the indebtedness allegedly secured;
- c. the debtor has an immediate need for the use of cash collateral to preserve its assets, fund its business operation, purchase inventory, etc.;
- d. debtor's reaffirmation of existing terms and conditions of existing financing documents with secured creditors.

2. Relief:

- a. Grant and define adequate protection to Secured Creditor (and its successor and assigns) pursuant to §361 and §363, including monthly adequate protection payments (if appropriate), subject to later allocation as to fees, interest and principal contingent upon results of §506(a) motions, if any.
- b. Grant Secured Creditor replacement liens in postpetition assets to the same extent and priority as existed at the date of bankruptcy.
- c. Grant Secured Creditor super-priority administrative claim to the extent of the diminution in the value of the secured creditor's collateral after the date of bankruptcy.
- d. Provide for establishment of a segregated DIP account into which cash collateral should be deposited.
- e. Restrict use of cash collateral to pay specified categories of operating expenses, per budgets to be attached to Order or subsequently filed with the Court.
- f. Require that Debtor maintain insurance.
- g. Require submission of periodic (weekly, bi-weekly, monthly) reports regarding use of cash, aging of accounts receivable, etc.
- h. Equality of treatment for carve-outs as between professionals for the Debtor and professionals for the Committee of Unsecured Creditors (or other committees) and other postpetition creditors.
- i. Provide that the prepetition liens of the Secured Creditor shall be continued postpetition as to both prepetition and postpetition assets, but the value thereof at the time of the filing of the bankruptcy

petition initiating the case, plus accruals and advances thereafter, and minus payments to the Secured Creditor thereafter. No additional financing statements or mortgages need be filed to perfect such postpetition liens and security interest (but may be filed if the Secured Creditor chooses).

- j. Identify the time period to which the Order is applicable and provide that even if authorization to use cash collateral expires, adequate protection/liens will continue to be effective until/unless otherwise modified by the Court.
- k. Set final hearing date and provide that summaries of documents relied upon by Secured Creditor in asserting perfected security interest be filed with the Clerk by such date. The summaries shall comply with the court's Electronic Case Filing Procedures.

B. The following provisions should not be included:

- 1. Stipulation as to the perfection, validity or priority of secured claims that are binding on any party other than the debtor, without affording other interested parties a reasonable time to challenge same.
- 2. Stipulations which reduce the time period within which parties in interest can challenge the perfection, validity, priority or amount of secured claims to (i) less than ninety (90) days from the engagement of counsel for the Committee of Unsecured Creditors or, if no counsel or no Committee is appointed, (iii) less than 120 days after the case is filed.
- 3. In cases where the Secured Creditor asserts liens on accounts receivable pursuant to asset based revolving credit facilities, provisions which recharacterize the "use of cash collateral" into "post-petition advances," without regard to whether the so called "post-petition advance" is a new loan, or the use of a prepetition receivable.
- 4. Provisions which release potential claims or causes of action by the estate against the lender.
- 5. Provisions which grant automatic relief from stay upon a material default under the cash collateral order (but secured creditor's entitlement to an expedited hearing in the event of a material default could be recognized).
- 6. Provisions which grant cross collateralization on unencumbered assets, absent extraordinary circumstances.

**GCP #9 SALE OF ESTATE PROPERTY OUTSIDE THE ORDINARY COURSE
OF BUSINESS**

A. Sale of Property

1. All sales not in the ordinary course of debtor's business shall be by motion, except where the seller also seeks:

a. to determine the validity, priority, or extent of a lien or other interest in property, other than the avoidance of a lien or other transfer of property exempt under §522(f) of the Code, or

b. to obtain approval pursuant to §363(h) of the Code for the sale of both the interest of the estate and of a co-owner in property.

In such excepted cases, the seller shall file an adversary and proceed by the adversary procedures including service of a summons set forth in Part VII of the Bankruptcy Rules and any Local Rules and procedures in effect in this District. A proposed order approving the sale shall be attached to the motion or complaint.

B. Before filing any motion for sale, the seller shall obtain from the appropriate court personnel a sale hearing time and date which shall normally be a time and date on which the Court regularly hears motions. Provided, however, if the seller anticipates that the sale hearing will take more than a limited time the seller shall so notify the appropriate court personnel and obtain a time and date which will allow sufficient time for the Court to dispose of the motion to sell property.

C. Responses and objections shall be filed and served at least fifteen (15) days prior to the sale hearing date. In addition to parties required to be served, responses and objections shall be filed on the initial offeror and counsel. The objecting party must attend the hearing or file and serve a notice of withdrawal of the objection at least two (2) business days prior to the hearing. Higher or better bids are not an objection to the motion.

D. If the property to be sold has an aggregate value of less than the value specified in Fed.R.Bankr.P. 6004 (d), notice by publication shall be at the discretion of the seller.

E. Notice Requirements

1. The seller shall send the Notice of Sale by first-class mail, or electronically to those parties who consent to receipt of electronic notice, to:

a. the debtor and debtor's counsel;

b. the trustee and trustee's counsel, if any;

- c. all indenture trustees and their counsel, if any;
- d. lien holders;
- e. all creditors;
- f. all committees appointed pursuant to the Code or to their authorized agents and their counsel, if any;
- g. the United States as required by Fed.R.Bankr.P. 2002(j); and
- h. the United States Trustee.

2. The debtor in possession or trustee may file a motion, served on all creditors and parties in interest, to establish a procedure for selling less than substantially all the assets of the estate or those assets of less than substantial value. The motion to establish sale procedure may provide that the notice of sale be served on a limited list of creditors and parties in interest. Each such list must be set forth with particularity in the motion to establish the sale procedure.

3. Addresses for Notice of Sale and Motions to Sell: Any notice required to be served under these procedures shall be addressed as directed in a request for notices filed with the Clerk but if a different address is stated in a proof of claim duly filed, that address shall be used; otherwise, to the address shown in the list of creditors in the schedules. Service may be made electronically if consent exists.

F. Conduct of Sale Not in The Ordinary Course of Business Pursuant to Fed.R.Bankr.P. 6004(f)

1. The Notice of Sale and publication of the Notice must contain the following information:
 - a. the case bankruptcy name and number and the adversary name and number or document number of the motion;
 - b. a brief description of the property to be sold (examples: personalty (Dodge Truck) or realty (Parcel 1 Estate ABC, as shown on PWD # 123, recorded in the Office of the Recorder of Deeds for the Division of St. Thomas and St. John/ St. Croix on _____ at _____);
 - c. the date, time and place of sale hearing;
 - d. the date by which objections to the sale must be filed and served;

- e. a statement of the amount of the initial offer and that higher or better offers will be considered at the hearing;
- f. the name, address, and telephone number of the person to contact for terms and conditions of sale or to examine the property; and
- g. hand money requirements at the time of the hearing.

2. Publication: Notice of any proposed sale of property with a selling price of less than \$50,000 shall be advertised by the seller by publication once in a newspaper of general circulation in the U.S. Virgin Islands. Advertising for sales of property with a selling price greater than \$50,000 shall be determined by motion and court order. The publication shall be made no more than twenty (20) nor less than five (5) calendar days before the scheduled date of sale.

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3. Proofs of publication of the advertising must be filed when received by movant or representation made to the Court at the time of the sale hearing that publication was made and that proofs of publication will be filed when received by the movant.

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4. Reports of Sale: An itemized Report of Sale shall be filed with the Court within five (5) calendar days of the date of consummation of the sale.

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GCP # 10 PROCEDURES GOVERNING MEDIATION IN BANKRUPTCY CASES

A. PRELIMINARY STATEMENT

1. "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving and exploring settlement alternatives.

2. *Referral by Bankruptcy Judge.* Except as hereinafter provided, the Bankruptcy Judge may hereafter order any contested bankruptcy matter or selected issue to be referred to mediation.

B. THE MEDIATION

1. Conference or Hearing Date. Unless otherwise ordered by the court, the first mediation conference shall be held within sixty (60) days of the order of referral.

2. Role of Counsel. Unless otherwise ordered by the court, counsel to the parties shall attend and participate in the mediation conference. The role of counsel shall be limited to

general consultation pursuant to the rules governing the attorney-client privilege.

3. Notice. Within fifteen (15) days after the order of referral, the court or its designee, who may be the mediator, shall notify the parties in writing of the date, time, and place of the conference.

4. A mediator is authorized to change the date and time for the mediation conference, provided the conference takes place within fifteen (15) days of the date set forth in (1)(A). Any continuance of the conference beyond this fifteen (15) day period must be approved by the judge to whom the case is assigned.

5. The mediation conference shall take place in a courtroom designated by the court or any other place designated by the court.

6. *Adjournments.* The mediator may adjourn the mediation conference at any time and may set a date and a time for reconvening the adjourned conference, provided the mediation conference takes place within fifteen (15) days of the original date set for the conference. Any continuance beyond this fifteen (15) day period must be approved by the presiding judge to whom the case is assigned. No further notification is required for parties present at the adjourned conference.

7. *Role of Counsel.* Mediation will proceed in the absence of counsel, unless otherwise ordered by the court. Counsel shall only be permitted to communicate privately with their clients, when the parties are not attending scheduled mediation proceedings.

8. *Communication with Parties.* The mediator may meet and consult with the parties or their counsel, on any issue pertaining to the subject matter of the mediation. Should the mediator wish to discuss a matter with the parties or their counsel, the mediator must inform all parties to the mediation of the location and subject matter of such meeting. The mediator can consult with any party or their counsel, only upon agreement of all parties. The mediator shall keep a written record of any and all meetings conducted with the parties or their counsel, and such record shall be made available to the parties.

C. MOTION TO DISPENSE WITH MEDIATION.

A party may move, within fifteen (15) days after the order of referral, to dispense with mediation if:

1. The issue to be considered has been previously mediated between the same parties;
2. The issue presents a question of law only;
3. Other good cause is shown.

D. THE MEDIATOR.

1. Certification of Mediators. The court shall certify as many mediators as it determines to be necessary.

2. Each individual certified as a mediator shall take the oath or affirmation prescribed by Title 28 U.S.C. Section 453 before serving as a mediator.

3. A list of all persons certified as mediators shall be maintained with the court.

4. The mediator has a duty to define and describe the process of mediation and its costs during an orientation session with the parties before the mediation conference begins. The orientation should include the following:

- a. Mediation procedures;
- b. The differences between mediation and other forms of conflict resolution, including therapy and counseling;
- c. The circumstances under which the mediator may meet alone with either of the parties or with any other person;
- d. The confidentiality provision as provided for by Title 5, Section 854 of the Virgin Islands Code;
- e. The duties and responsibilities of the mediator and the parties;
- f. The fact that any agreement reached must be reached by mutual consent of the parties;
- g. The information necessary for defining the disputed issues.

5. The mediator has a duty to be impartial, and to advise all parties of any circumstances bearing on the mediator's possible bias, prejudice or lack of impartiality. Any person selected as a mediator shall be disqualified for bias, prejudice or impartiality as provided for by Title 28 U.S.C. Section 144 and shall disqualify him/herself in any action in which he/she would be required under Title 28 U.S.C. Section 455 to disqualify him/herself if he/she were a judge.

6. *Mediator's Liability.* A mediator appointed by the court pursuant to these rules shall have judicial immunity in the same manner and to the same extent as a judge.

7. *Disqualification of a Mediator.* Any party may move the court to enter an order disqualifying a mediator for good cause. Mediators have a duty to disclose any fact bearing on their disqualifications which would be grounds for disqualification. If the court rules

that a mediator is disqualified from hearing a case, an order shall be entered setting forth the name of a qualified replacement. Nothing in this provision shall preclude mediators from disqualifying themselves or refusing any assignment. The time for mediation shall be tolled during any periods in which a motion to disqualify is pending.

E. APPOINTMENT OF THE MEDIATOR.

1. Within ten (10) days of the order of referral, the parties may agree upon a stipulation approved by the court designating:

a. A certified mediator; or

b. A mediator who does not meet the certification requirements of the rules but who, in the opinion of the parties and upon review by the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

2. If the parties cannot agree upon a mediator within ten (10) days of the order of referral, the plaintiff or petitioner shall so notify the court within ten (10) days of the expiration of the period to agree on a mediator, and the court shall appoint a certified mediator selected by rotation or by such other procedures as may be adopted by administrative order of the court.

F. COMPENSATION OF THE MEDIATOR.

1. The mediator shall be compensated by the parties. The presiding judge may determine the reasonableness of the fees charged by the mediator. In the absence of a written agreement providing for the mediator's compensation, the mediator shall be compensated at the hourly rate set by the presiding judge in the referral order. Each party shall pay one-half or such other proportionate share of the total charges of the mediator as may be agreed upon, unless the mediator and/or the court determines that one party has not mediated in good faith.

a. *No Agreement.* If the parties do not reach any agreement as to any matter as a result of mediation, or if the mediator determines that no settlement is likely to result from the mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation. With the consent of the parties, the mediator's report may also identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.

2. *Agreement.* If an agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any. The agreement shall be filed when required by law or with the

parties' consent. If the agreement is not filed, a joint stipulation of dismissal shall be filed. By stipulation of the parties, the agreement may be electronically or stenographically recorded. In such event, the transcript may be filed with the court.

G. CERTIFICATION OF MEDIATORS.

For certification, a mediator:

1. Must complete a minimum of twenty (20) hours in a training program approved by the Bankruptcy Court; and,
2. Must observe a minimum of four mediation conferences conducted by a certified mediator and conduct four mediation conferences under the supervision and observation of a court certified mediator;
3. Standing: A mediator must also meet one of the following minimal requirements:
 - a. The mediator may be a member in good standing of the Virgin Islands Bar with at least five years of Virgin Islands practice, and be an active member of the Virgin Islands Bar within one year of application for certification; or,
 - b. Paragraph (I) notwithstanding, the chief judge, upon written request setting forth reasonable and sufficient grounds, may certify as a Bankruptcy Court mediator a retired judge who was a member of the bar in the state or Territory in which the judge presided. The judge must have been a member in good standing of the bar of another state for at least five years immediately preceding the year certification is sought and must meet the training requirements of subsection (g)(1)(A); or,
 - c. The mediator may be the holder of a master's degree and be a member in good standing in his or her professional field with at least five (5) years of practice in the Virgin Islands; and,
4. Notwithstanding the foregoing procedures which are the preferred method of certification, the court may, in the absence of an available pool of certified mediators, appoint as a mediator a qualified person acceptable to the court and the parties. Also, a person certified as a mediator by the American Arbitration Association, or any other national organization

approved by the Bankruptcy Court shall be deemed to qualify under this section as a Bankruptcy Court Mediator.

H. TERMINATION OF MEDIATION.

Mediation shall be completed within forty-five (45) days of the first mediation conference unless extended by order of the court or by stipulation of the parties, but in any event the process shall not exceed ninety (90) calendar days.

I. TYPES OF MATTERS SUBJECT TO MEDIATION.

The Court may assign to mediation any dispute arising in an adversary proceeding, contested matter or otherwise in a bankruptcy case. Fed. R. Bankr.P. 7016 hereby is made applicable in which mediation is requested in accordance with the Mediation Program.

J. CONFIDENTIALITY OF MEDIATION PROCEEDINGS.

1. *Disclosure Privilege.* Each party involved in a court-ordered mediation conference has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing communications made during such proceeding.
2. *Inadmissibility of Mediation Proceedings.* Any or all communications, written or oral, made in the course of a mediation proceeding, other than an executed settlement agreement, shall be inadmissible as evidence in any subsequent legal proceeding, unless all parties agree otherwise.

K. INTERIM OR EMERGENCY RELIEF.

A mediator may apply to the court for interim or emergency relief at any time, at the initiation of the mediator upon consultation with the parties, or at the parties' request. Mediation shall continue while such a motion is pending absent a contrary order of the court or a decision of the mediator to adjourn pending disposition of the motion. Time for completing mediation shall be tolled during any periods where mediation is interrupted pending resolution of such a motion.

L. SANCTIONS FOR FAILURE TO APPEAR.

If a party, without good cause, fails to appear at a duly noticed mediation conference or fails to participate in the mediation in good faith, the court shall impose sanctions, including an award of mediator and attorney fees and other costs against the party failing to appear or found not to have mediated in good faith. If, in the opinion of the mediator, a party has not participated in the mediation in good faith, and notwithstanding any other provisions of this rule, the mediator shall notify the referring judge in writing who shall

make such further proceedings as appropriate to resolve the issue. If a party to mediation is a public entity, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision making body of the entity. Otherwise, unless stipulated by the parties, a party is deemed to appear at a mediation conference if the following persons are physically present:

1. The party or its representative having full authority to settle without further consultation; and,
2. A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to settle without further consultation.

PART II.
ELECTRONIC CASE FILING
PROCEDURES
(ECF)

UNITED STATES DISTRICT COURT FOR THE
UNITED STATES VIRGIN ISLANDS
BANKRUPTCY DIVISION

ECF Procedures

Adopted By the Court Pursuant to Local Rule 5005-1

Procedure #1	Scope of Electronic Filing
Procedure #2	Eligibility, Registration, Passwords
Procedure #3	Consequences of Electronic Filing
Procedure #4	Entry of Court Orders
Procedure #5	Attachments and Exhibits
Procedure #6	Sealed Documents
Procedure #7	Retention Requirements
Procedure #8	Signatures
Procedure #9	Service of Documents by Electronic Means
Procedure #10	Notice of Court Orders and Judgments
Procedure #11	Technical Failures
Procedure #12	Public Access
Procedure #13	PDF Files with Full Search Capability
Procedure #14	CM/ECF Accounts for a Limited Purpose

ECF PROCEDURE #1 SCOPE OF ELECTRONIC FILING

These Procedures use the term “Electronic Filing System” or “ECF System” to refer to the Court’s system that receives documents filed in electronic form. The term “Filing User” is used to refer to those who have a Court-issued log-in and password to file documents electronically.

Except as otherwise provided by Order of Court, all cases and pleadings will be assigned to the Electronic Filing System. Except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the Court in connection with a case assigned to the Electronic Filing System must be electronically filed.

A paper copy of a motion for expedited hearing or an application for a temporary restraining order and any response shall be delivered to chambers. The front page of the pleading shall note that it is a courtesy copy. The filing party may call chambers to arrange for alternative transmission of the document.

In Chapter 7 cases, a paper copy of the voluntary bankruptcy petition, schedules and statements must be delivered by debtor’s attorney to the Chapter 7 trustee no more than five (5) business days after the documents are electronically filed with the Court.

Attorneys and others who are not Filing Users in the Electronic Filing System are required to electronically file pleadings and other papers in a case assigned to the System. Once registered, a

Filing User may withdraw from participation in the Electronic Filing System by providing the Clerk's Office with written notice of the withdrawal.

The Clerk shall provide reasonable alternative access during regular business hours for those who are not Filing Users to allow such persons to file documents electronically.

ECF PROCEDURE #2 ELIGIBILITY, REGISTRATION, PASSWORDS

Attorneys admitted to the bar of this Court (including those admitted pro hac vice), United States trustees and their assistants, private trustees, and others as the Court deems appropriate, may register as Filing Users of the Court's Electronic Filing System. Registration is in a form prescribed by the Clerk and requires the Filing User's name, address, telephone number, Internet e-mail address, and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this Court.

If the Court in a particular case permits, a party to a pending action who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for purposes of the action. Registration is in a form prescribed by the Clerk and requires identification of the action as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

Registration as a Filing User constitutes, in any case in which the Filing User has entered an appearance: (1) waiver of the right to receive notice by first class mail and consent to receive notice electronically; and (2) waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under Federal Rule of Bankruptcy Procedure 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed.R.Bankr.P. 9022.

Once registration is completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Users may be subject to sanctions for failure to comply with this provision.

ECF PROCEDURE #3 CONSEQUENCES OF ELECTRONIC FILING

Once received, electronic transmission of a document to the Electronic Filing System consistent with these Rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Fed.R.Bankr.P. 5003.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed. Except in the case of documents filed first in paper form and subsequently submitted electronically under ECF Procedure No. 1, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the Court.

Filing a document electronically does not alter the filing deadline for that document. Unless otherwise ordered, filing must be completed before midnight local time where the Court is located in order to be considered timely filed that day.

ECF PROCEDURE #4 ENTRY OF COURT ORDERS

All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with these Procedures and the Local Rules, which will constitute entry on the docket kept by the Clerk under Fed.R.Bankr.P. 5003 and 9021. All signed orders will be filed electronically by the Court or Court personnel. Any order filed electronically without the original signature of a Judge has the same force and effect as if the Judge had affixed the Judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

A Filing User submitting a document electronically that requires a Judge's signature must promptly deliver the document in such form as the Court requires. Orders must be filed in compliance with the requirements specified by the Judge assigned the bankruptcy case or adversary proceeding. These requirements are published on the Court's Website at each Judge's web page.

ECF PROCEDURE #5 ATTACHMENTS AND EXHIBITS

Exhibits and other attachments to pleadings shall not exceed ten (10) pages in length. A summary not exceeding ten (10) pages may be filed for exhibits and attachments that are more than ten (10) pages in length. In lieu of the summary or in lieu of the entire document, a one-page Document and Loan History Abstract, Local Form No. 27. All abstracts, exhibits and exhibit summaries must be electronically filed, each as a separate attachment, to the docket entry to which they refer.

Attachments shall be filed as separate PDF files. Attachments shall include the case name and number and a brief description of the main document to which it relates at the top of the first page of the attachment. If the first page of the attachment does not have enough space available to include the case name and number and a brief description of the main document, then a cover sheet listing that information must be filed as the front page of the attachment.

Exhibits attached to the following pleadings are not subject to the ten-page limitation: Application for Compensation and Reimbursement, Trustee's Final Report and Account, Plan of Reorganization, and Disclosure Statement.

The party filing a pleading containing a summary of an exhibit or the Document and Loan History Abstract shall have a paper copy of the entire document at any hearing that is reasonably expected to pertain to the pleading. The party filing a pleading containing a summary or abstract shall, upon request of any party in interest, provide a copy of the entire exhibit. The copy may be provided in electronic format.

ECF PROCEDURE #6 SEALED DOCUMENTS

Documents ordered to be filed under seal must be filed as a paper document, not electronically, unless specifically authorized by the Court. A motion to file documents under seal should not contain confidential or privileged information and shall be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal shall be filed electronically unless prohibited by law. A paper copy of the order authorizing the filing of documents under seal must be attached to the documents under seal and be delivered to the Clerk. Local Rule 5005-3 shall be followed when filing documents under seal.

In connection with the filing of any material in an action assigned to the Electronic Filing System, and subject to Procedures, Rules, Orders or statutes concerning the filing of documents under seal, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests. If the Court determines that access should be limited to certain matters, the Order (or a Notice thereof) shall be filed electronically.

ECF PROCEDURE #7 PAPER RETENTION REQUIREMENTS

Documents that are electronically filed and require original signatures other than that of the Filing User, such as the debtor, corporate officers, etc., must be maintained in paper form by the Filing User for six (6) years from the date of filing. Failure to maintain documents for the specified period shall subject the Filing User to sanctions including, without limitation, disgorgement of fees. On request of the Court, the Filing User must provide original documents for review.

This requirement also applies to any document for which statute, rule, or Court order requires an original signature. The signature of the debtor(s) authorizing the electronic filing of the bankruptcy case shall be accomplished by filing an original executed paper version of the Declaration Re: Electronic Filing, Local Form No. 1, within fifteen (15) days of the electronic filing of the petition. Both debtors must sign the authorization when a joint petition is filed.

The attorney representing the debtor must notify the Court forthwith if the debtor(s) fails to sign the declaration. The case shall be dismissed without prejudice when the Court is notified that the debtor has failed to sign the affidavit or when the affidavit is not filed within fifteen (15) days of the date the petition is filed.

ECF PROCEDURE #8 SIGNATURES

The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of Fed.R.Bankr.P. 9011, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court.

Electronically filed documents must comply with Fed.R.Bankr.P. 9011 and set forth the name, address, telephone number and the attorney's state bar registration number, if applicable. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. Failure to comply with these requirements may result in the Court striking the unsigned document from the record.

No Filing User or other entity may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

When a settlement agreement or similar document that requires signatures from more than one party is filed electronically, the filing party must check the Judge's procedures on the Court's Website in order to determine if the Judge assigned to the case has specific instructions for filing a document of this nature. If the Judge assigned to the case does not have specific instructions, then the document bearing all the necessary signatures: (1) may be scanned; (2) may be filed in a PDF format provided that the filing user certifies that all parties whose signatures are required have consented to the document and endorsed the filing; or (3) in any other manner approved by the Court. Local Form No. 26, Settlement and Certification of Counsel, must be filed with the document attached.

An attorney's password and login may be revoked by the Court.

ECF PROCEDURE #9 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

A. Requirement of Service of Notice that Pleading Has Been Filed: Each entity electronically filing a pleading or other document must serve all parties in interest with the Notice of Electronic Filing issued to the Filing User by the ECF system.

B. Electronic Notice of Filing: Electronic transmission of the Notice of Electronic Filing constitutes service of the filed document and notice that it has been filed.

C. Service by Other Means: The Filing User must serve parties in interest who have not received an electronic copy of the Notice of Electronic Filing in accordance with the Federal Rules of Bankruptcy Procedure. Such service must include the Notice of Electronic Filing and a copy of the document which was filed.

ECF PROCEDURE #10 NOTICE OF COURT ORDERS AND JUDGMENTS

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the Clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Bankr.P. 9022. The Clerk or such other person as the Court or Rules may direct must give notice in paper form to a person who has not consented to electronic service in accordance with the Federal Rules of Bankruptcy Procedure.

ECF PROCEDURE #11 TECHNICAL FAILURES

A. A Filing User whose filing is made untimely as a result of a technical failure may seek appropriate relief from the Court.

B. Confirmation that ECF System is Inaccessible: If a Filing User is unable to access the ECF System due to technical inaccessibility resulting from a technical failure of the ECF system itself or the Court's server, the filing party must:

1. First obtain confirmation from the Clerk's Office that the ECF system is inaccessible.
2. Then contact the Courtroom Deputy of the Judge to whom the case is assigned and state the reason why an immediate filing is necessary. The Courtroom Deputy will advise the filing party whether filing should be made by other means.

ECF PROCEDURE #12 PUBLIC ACCESS

Any person or organization may access the Electronic Filing System through the Court's Internet site <http://www.vid.uscourts.gov/> by obtaining a PACER log-in and password. Anyone who has PACER access but who is not registered as a Filing User under these Procedures may retrieve docket sheets and documents but may not file documents.

Information posted on the System must not be downloaded for uses inconsistent with the privacy concerns of any person.

ECF PROCEDURE #13 PDF FILES WITH FULL TEXT SEARCH CAPABILITY

All documents filed electronically using the Court's Case Management/Electronic Case Filing System (CM/ECF) must be filed in a Portable Document Format (PDF). Documents must be filed in a format that allows the Court to perform a full text search, except that documents

received by the filing party from an outside source may be scanned into a PDF format and filed as a document that will not be fully text searchable.

ECF PROCEDURE #14 CM/ECF ACCOUNTS FOR A LIMITED PURPOSE

A password may be issued for the limited purpose of filing proofs of claim, notice requests, reaffirmation agreements, withdrawal of claims transfers of claims, and/or objections to transfer of claim on CM/ECF (a “limited password”). However, to be eligible for a limited password the applicant must be registered as a CM/ECF participant in another district or attend CM/ECF training provided by the Clerk. Parties who are not attorneys may receive a limited password.

A party’s use of the limited password for filing proofs of claim, notice requests, withdrawal of claims transfers of claims, and/or objections to transfer of claim (the “Limited Filing User”) on CM/ECF constitutes the Limited Filing Users signature on any document filed electronically. All documents filed by the Limited Filing User and all documents bearing the imaged signature of any signer on whose behalf the documents are filed must be maintained in accordance with ECF Procedure No. 7. Limited Filing Users may only file documents signed by the Limited Filing User or a member of the firm employing the Limited Filing User (the “Firm”).

The Limited Filing User and a representative of the Firm must complete a Limited Filing User Registration Form and Agreement in order to receive a limited password. The Limited Filing User must complete an evaluation with the Clerk prior to obtaining a login and password to CM/ECF. The Firm is responsible for electronic filings made by the Limited Filing User.

Except as otherwise specified in this Procedure, a Limited Filing User and his Firm must follow the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Rules, forms, and Procedures promulgated by the United States Bankruptcy Court for the United States Virgin Islands when filing electronically.

When filing a proof of claim, the Limited Filing User must add the correct mailing address to the creditor matrix if the current address is incorrect.

A transfer of a claim for which a proof of claim has been filed shall state the claim number, as shown in the Claims Register, for the transferred claim. A transfer of claim shall be filed in accordance with the Clerk’s Procedures. If a proof of claim has not been filed by the transferor, please note that on the transfer of claim.

The Limited Filing User shall file documents on behalf of a third party only with the express authorization of the entity on whose behalf the document is being filed.

When the Limited Filing User signs the document, the name of the Limited User under whose log-in and password the document is submitted must be preceded by an “/s/” and typed in the space where the signature would otherwise appear on a document. The Limited Filing User must comply with the signature requirements of ECF Procedure #8.

By using the limited login and password, the Limited Filing User is certifying that: (A) the Limited Filing User is authorized to file the document(s) on behalf of the Firm; (B) the Firm is the same entity stated on the Limited Filing User's application to use CM/ECF; (C) the Firm has the authority to file documents as an agent when filing documents on behalf of an entity other than the Firm.

The Limited Filing User and a representative of the Firm must notify the Clerk immediately when the Limited Filing User is no longer an employee of the Firm, ceases being an agent of the Firm, or no longer has authority to file documents on the Firm's behalf.

The Limited Filing User shall not receive electronic notification of documents and docket activity.

The Limited Filing User and Firm must provide two additional contacts in the event the Limited Filing User is not available to communicate with the Clerk on filing issues.

The Clerk may terminate the Limited Filing User's login and password without prior notice when the Clerk deems such action necessary.

ECF PROCEDURE #15 Payment of Filing Fees

All fees must be paid by Check, Money Order or Cash. Certain pleadings require fees be paid by two separate checks or money orders. Please see www.vid.uscourts.gov under Court Fees for a list of all fees that must be paid by two separate checks or money orders. All Checks and Money Orders are to be made payable to the Clerk of the Court.

Payment is required to complete the process of filing a document electronically. If payment is not received by the close of the next business day, the court will take necessary action which may include striking the pleading from the record.

PART III.
CHAPTER 13 PROCEDURES

Chapter 13 Procedures

- Procedure #1 - Business Case Procedures
- Procedure #2 - Claims and Objections to Claims
- Procedure #3 - Fee Applications in Chapter 13 Cases
- Procedure #4 - Interim Confirmation Order; Distribution Under Plans
- Procedure #5 - Additional Requirements
- Procedure #6 - Motions to Dismiss or Convert
- Procedure #7 - Postconfirmation Matters
- Procedure #8 - Pleading Special Matters in Motions
- Procedure #9 - Notice of Monthly Payment Changes
- Procedure #10 - Proofs of Assignment-Secured and Priority Claims
- Procedure #11 - Service on Chapter 13 Trustee
- Procedure #12 - Meeting of Creditors
- Procedure #13 - Continued Conciliation Conferences
- Procedure #14 - Wage Order in Chapter 13 Cases
- Procedure #15 - Sale Of Property Without Publication

The Chapter 13 Procedures Section is specifically related to Chapter 13 Procedures, however, it should be understood that the Local Bankruptcy Rules apply even when not specifically cited here. In the event of a conflict between these local bankruptcy rules and the Chapter 13 Procedures, the Chapter 13 Procedures shall control. Final interpretation of these Procedures remains with the Court.

Procedure #1 – Business Cases Procedures

A. The Debtor engaged in business in a Chapter 13 case shall:

1. keep current and pay when due any debt which arose on or after the entry of the order for relief, including any business related utility bills and excluding debt for rent of any business related property, adequate protection to a secured creditor or post petition mortgage payments. Rent for business related property, adequate protection payments and post petition mortgage payments shall be added to the plan payment and paid to the Chapter 13 Trustee, who will distribute those payments to the creditors as designated in the plan.

2. submit to the local office of the Department of Revenue of the United States Virgin Islands a certified or cashier's check in full payment of the following taxes as follows:

- a. any USVI sales tax collected shall be remitted together with the proper tax returns no later than the end of the fifth business day

following the last day of each month in which such sales taxes were required to be collected; and

b. all employer withholding tax (personal income tax) shall be remitted together with the proper tax returns no later than the end of the second business day after the payment of wages to employees;

3. submit no later than the last day of the month following the end of the quarter to the local office of the USVI, Department of Labor, in accordance with the filing and payment provisions of the USVI Unemployment Laws, tax returns together with a certified or cashier's check in full payment of the following taxes: employer contributions due pursuant to USVI Unemployment Compensation Law.

4. submit or provide to the trustee not later than 15 days before the date first set for the first meeting of creditors a paper copy of any and all tax returns required under applicable law (or, at the election of the debtor, a transcript of such return) for the four years before the commencement of the case. If a tax return was not filed, the debtor shall submit an affidavit or declaration under penalty of perjury with the trustee not later than 15 days before the date first set for the first meeting of creditors which informs the trustee that a tax return is not available and the reason.

B. Reports in Chapter 13 Business Cases

A Chapter 13 debtor engaged in business shall:

1. timely file all required tax returns with the applicable taxing bodies before the §341 meeting of creditors;

2. serve on the Chapter 13 Trustee a Chapter 13 Business Case Questionnaire on a form substantially in compliance with Local Form No. 5 at least fifteen (15) days prior to the first date set for the meeting of creditors;

3. serve on the Chapter 13 Trustee and others as ordered by the Court a report of operations no later than the fifteenth day of the month covering the preceding month. The monthly reports of operations shall not be filed with the Court.

C. Contents of Reports

1. The initial report of operations shall include a statement of the name and location of each depository or place of investment holding funds of the estate and the applicable account number(s).

2. In addition to the information required by Fed.R.Bankr.P. 2015, all statements of operations shall contain a cumulative list of all debts which have arisen and indicate which have been paid and which remain unpaid since the order for relief was entered.

Procedure #2 – Claims and Objections to Claims

A. The creditor's account number must be conspicuously stated on the claim form.

B. A claim filed by a secured creditor shall identify the collateral. A holder of a claim secured by the debtor's personal residence must separately state the following: arrearage, late fees, attorney's fees and foreclosure costs incurred through the date of filing of the debtor's bankruptcy petition, principal balance, applicable interest rate and amount of the regular monthly payment. Any postpetition arrearage must be separately stated and itemized.

C. All claims arising out of the rejection of executory contracts must be filed and served on the Chapter 13 Trustee and the debtor or debtor's attorney, if represented, by the later of the claims bar date or thirty (30) days after the date of rejection. Executory contracts may be rejected in the confirmed plan.

D. No deficiency shall be paid to a creditor following the consensual relinquishment of collateral unless the creditor files and serves on the Chapter 13 Trustee, the debtor and debtor's attorney, if represented, a notice of intention to collect a deficiency within thirty (30) days after the effective date of the surrender.

E. If an amended proof of claim is filed after the deadline for filing claims such claim must be served by the creditor on the Chapter 13 Trustee and the debtor and debtor's attorney, if represented. All objections to the amended proof of claim must be filed and served within fifteen (15) days.

F. Failure of a creditor to file a claim provided for in the confirmed plan shall inure to the benefit of the allowed unsecured creditors. The Chapter 13 Trustee shall increase the percentage to be paid accordingly, provided that payments shall not exceed 100 percent of the total amount of the allowed unsecured claims (plus interest if provided in the plan for such claims). Distributions to unsecured creditors shall be made on a pro rata basis as calculated by the Chapter 13 Trustee.

G. The Chapter 13 Trustee is authorized to amend monthly payments to mortgage holders where required by floating interest rates or changes in the insurance and tax escrow payments, provided that the mortgage company has given notice to the debtor and trustee and the debtor has not filed and served an objection within fifteen (15) days.

H. If a secured creditor obtains relief from the automatic stay, the Chapter 13 Trustee shall suspend distributions to all creditors with claims secured by the collateral released from the automatic stay, following the Chapter 13 Trustee's receipt of notice of the grant of relief. However, the Chapter 13 Trustee shall continue to make distributions to the remaining creditors in accordance with the terms of the plan.

I. The debtor or debtor's attorney if represented, shall review the proofs of claim filed and file objections to any disputed claims within ninety (90) days of the claims bar date. Absent an objection, the proof of claim will govern as to the classification and amount of the claim.

Procedure #3 - Fee Applications in Chapter 13 cases

A. The maximum fee for Chapter 13 cases is presumed to be \$2,500. The maximum fee may be adjusted by the Court periodically. Whenever debtor's counsel fees exceed the \$2,500 limit (plus filing fees), the Court requires a fee application to be filed in accordance with the Court Procedures Manual. The \$2,500 maximum fee includes any retainer received.

B. The \$2,500 limit contemplates that the debtor(s) will be interviewed by an attorney, that accurate and complete schedules will be prepared, that the debtor(s) will be briefed on the Chapter 13 process, that all documents will be explained and that the attorney will file a Chapter 13 plan that meets with the requirements of Local Form No. 10 and that is capable of confirmation.

C. The fee also contemplates that the counsel will attend the first Meeting of Creditors and all hearings, and will remain counsel of record until the case is either completed or dismissed, unless the Court has issued an order discharging the attorney as counsel of record.

D. Counsel is expected to file all motions and objections contemplated in the confirmed plan in a timely fashion. Counsel is also expected to file and complete representation without additional charge to the debtor(s) for the duration of the Chapter 13 case.

E. Counsel shall enter into a written fee agreement, which may provide for future fees in the event of future complications. To the extent those fees exceed \$2,500 total, the attorney must still file a fee application. Additional fees may be paid through the Chapter 13 plan.

F. Nothing in this rule shall preclude additional fees being awarded by the court after the filing of a fee application.

Procedure #4 – Interim Confirmation Order; Adequate Protection Payments; Distribution Under Plans

A. Upon the filing of a petition under Chapter 13 an automatic standing Interim Confirmation Order will authorize the Trustee to make disbursements, from funds received from the debtor, within 30 days from the Order for relief, to lessors pursuant to lease contracts and to secured creditors on contracts for which debtor elects to provide adequate protection payments and to post petition payments on obligations pursuant to 11 USC §1326(a)(1). Trustees distributions will be made only when debtor has filed with the Court and served the Trustee and all creditors and parties in interest with a proposed chapter 13 Plan accompanied with a **Notice of Post Petition Payments** listing the lessors and/or secured creditors that will be paid together with their names and the addresses where payments must be sent, the account number(s) and the date(s) payments are due and the amount(s) to be paid.

B. This standing Interim Order of Confirmation will remain in effect until a Final Confirmation Order is issued or until the case is dismissed or converted to another chapter, if that occurs, before a final Confirmation Order is issued.

C. Trustee's distributions under this Interim Confirmation Order are subject to the current trustee fee fixed by the Attorney General pursuant to 28 U.S.C. §586(e).

D. On motion by the debtor, for cause shown, the court may allow debtor to make direct payments to these same lessors and/or creditors.

E. The distribution of any proceeds pursuant to a confirmed plan shall be mailed to the address of the creditor as designated pursuant to Fed.R.Bankr.P. 2002(g).

F. Unless otherwise ordered the Trustee will not make distribution, under an Interim or Final Confirmation Order, to any creditor or party in interest, unless a timely claim is filed and allowed pursuant to 11 U.S.C. §501, 502, 503 and Fed. R. Bankr. P. Rules 3001, 3002(c), 3004 and/or 3005.

1. Unsecured and priority claims: A late filed general unsecured or priority claim will participate in the distribution under an Interim or Final Confirmation Order, subordinated to those claims timely filed and provided for in the plan, unless an objection is filed within 15 days after service of the late filed claim. If an objection is filed, trustee will reserve funds for the claim until an order is entered allowing or disallowing the claim.

2. Secured Claims: A late filed secured claim that is included in the plan will participate in distributions under an Interim or Final Confirmation Order from the next distribution made by the Trustee after the Proof of Claim is filed and served and until the plan base is met or the claim is paid the amount provided in the plan, whichever occurs first.

A late filed secured claim will not be paid if an objection is filed within 15 days after service of the late filed claim; however, Trustee will reserve funds for the claim until an order is entered allowing or disallowing the claim.

G. In the event of a conversion or dismissal following the confirmation of a plan, the Chapter 13 Trustee shall distribute all funds received prior to the effective date of the conversion or dismissal, in accordance with the terms of the confirmed plan.

Procedure #5 - Additional Requirements

In all cases where the debtor owns real estate or operates a business, a search of public records in the territorial location in which the debtor owns real estate or conducts business shall be conducted in advance of the filing of the petition. Verification of that search shall be made by the debtor's attorney through a statement filed with the bankruptcy schedules.

Procedure #6 - Motions to Dismiss or Convert

A. Content of Motion. A motion to dismiss a voluntary petition shall set forth the basis in law and reasons for the dismissal. The motion shall also set forth whether any arrangement or agreement has been made with any creditor or other person in connection with such motion to dismiss and the terms thereof.

B. List of Creditors. Any motion by a debtor for dismissal of a voluntary petition shall be accompanied by a list containing the name and complete mailing address of any creditor not previously scheduled, including any creditor who has extended credit since the date of filing of the petition and who remains unpaid at the time of the motion. If there is no such creditor, the motion shall so state.

C. Procedures With Respect to Motions to Dismiss or Convert

1. A motion filed by a party other than the debtor to convert or dismiss a Chapter 13 case shall be scheduled initially for a hearing before the presiding judge.

2. Upon the filing by the Chapter 13 Trustee of a Certificate of Default Recommending Dismissal of Case based upon plan payment defaults, the debtor shall file and serve a written response accompanied by documentation that at least one full plan payment was sent to the Chapter 13 Trustee's lock box after the date of the Certificate of Default.

a. The debtor's failure to respond in accordance with the requirement of the order will result in the dismissal of the case without a hearing.

b. The response must set forth in detail the basis for denial of the Chapter 13 Trustee's request for dismissal and any prospective plan changes designed to cure the existing default. Proof of one full plan payment must be attached to any response, including an amended or modified plan. The payment must be in the amount provided in the amended or modified plan.

c. If the response proposes that additional payments will be made prior to the hearing scheduled on the motion, verification of such payments must be made to the Court contemporaneously with delivery of payment to the Chapter 13 Trustee.

d. If the response indicates that the plan payment is to be increased in order to cure existing default(s), the new payment must be identified in the response and an amended or modified plan that adjusts the plan payment shall be filed together with the response and served on all parties in interest.

e. If the response expresses the debtor's intent to amend or modify the plan, the amended or modified plan shall be filed along with the response and served on all parties in interest. Upon the filing of the amended or modified plan, the Court shall cancel the hearing previously set for consideration of the Chapter 13 Trustee's request for dismissal and a conciliation conference and plan confirmation hearing will be scheduled. If the debtor fails to make any plan payment prior to the conciliation conference and plan confirmation hearing, on Supplemental Certificate of Default filed and served by the Chapter 13 Trustee the case will be dismissed and the hearing cancelled. The conciliation conference date, time and location may be set in the order that sets the hearing on the Trustee's request to dismiss the case.

Procedure #7 - Postconfirmation Matters

A. Notwithstanding any provision in a Chapter 13 plan revesting property of the estate in the debtor, all sales of real and personal property shall be conducted in accordance with the Federal Rules of Bankruptcy Procedure and Local Rules. The notice of sale must state the proposed disposition of sale proceeds.

B. Any postpetition extensions of credit sought by the debtor shall be in the form of a motion subject to the Federal Rules of Bankruptcy Procedure and Local Rules. Such motion shall be served on the Chapter 13 Trustee and all parties in interest.

C. A motion seeking real estate/mortgage financing shall include the following information:

1. identity of the property that is subject to the financing;
2. identity of the source of funds;
3. a description of the terms of the financing including:
 - a whether it will be the first mortgage on the subject property;
 - b the amount of principal borrowed;
 - c the interest rate;
 - d the term of the loan and its amortization schedule;
 - e the amount of the monthly payment; and
 - f all other material terms of the financing agreement;
4. whether the new mortgage financing is to be incorporated into the existing plan or is designed to complete payments under the plan;
5. the status of plan payments at the time that the motion is filed;
6. if a discharge is sought through the financing, whether the provisions of 11 U.S.C. §1328 are met;
7. the date the loan is expected to close; and
8. the effect on the plan of the transaction.

D. A motion seeking approval of motor vehicle financing shall include the following:

1. the type and cost of vehicle being purchased;
2. the source of funds;
3. the terms of financing, including:
 - a. the principal borrowed;
 - b. the interest rate;
 - c. the term of the loan and its amortization schedule;
 - d. the amount of the monthly payment; and
 - e. all other material terms of the financing agreement;
4. how the new payment will be incorporated into the Chapter 13 plan;

5. the status of plan payments at the time the motion is filed;
6. whether any further plan modification is necessary;
7. the date the loan is expected to close;
8. if the treatment of other creditors will be changed as a result of this financing, a statement of the rationale and underlying facts in support of that change;
9. if the plan payment is to be changed as a result of the financing, sufficient facts to demonstrate the feasibility of the plan amendment;
10. whether the standards of 11 U.S.C. §1325(b) are met; and
11. whether and when an amended or modified plan will be filed.

Procedure #8 - Pleading Special Matters in Motions

In Chapter 13 cases a motion for relief from stay shall include:

1. an itemized statement of the prepetition default and the amount necessary to cure as of the bankruptcy filing date;
2. a separate itemized statement of the postpetition defaults;
3. an attachment in the form of a Document and Loan History Abstract (Local Form # 27);
4. a statement of the fair market value of the collateral and the basis of the opinion;
5. whether the debtor has equity in the property
6. identification of the original holder of the obligations secured by the mortgage or other security interest and every subsequent transferee including the movant and whether the movant is the holder of that obligation or an agent of the holder; and
7. all other grounds for relief.

Procedure #9 - Notice of Monthly Payment Changes

All notices of post petition monthly payment changes must be served on the debtor, debtor's counsel and the Trustee. This applies not only to the mortgage changes but to any monthly distribution made through the plan by the Trustee. The Trustee will not implement and the Court will not enforce a default order increasing the periodic plan payment without the affirmative consent of the Trustee. Default orders shall set a 15 day deadline that requires the debtor to propose an amended plan containing the payment change or to certify that the existing plan payment is sufficient. Any amended plan containing the changed payment shall include the following statement: "The new postpetition monthly payment payable to _____ is effective _____."

The Chapter 13 Trustee is not liable for late fees that may accrue during the term of the plan. The debtor's counsel (or debtor if pro se) will be responsible for proposing an amended plan including the increased monthly payment if the monthly payment change results in the under-funding of the plan. In the event that the monthly payment change does not result in the under-funding of the plan, debtor's counsel (or debtor if pro se) must file a declaration that he has reviewed the existing plan, recomputed the plan payment, and finds that the existing payment is sufficient to fund the plan even with the new debt added. The declaration filed to indicate that the plan remains adequately funded to pay the new postpetition monthly payment shall include the following statement: "The new postpetition monthly payment payable to _____ is \$_____, effective _____."

Procedure #10 - Proofs of Assignment-Secured and Priority Claims

A. Whenever the Trustee receives notice from an assignor or transferee that a claim has been transferred or whenever the Trustee receives a returned check or any other statement from the creditor indicating that the account has been paid in full, assigned or that the recipient being paid is not owed the claim, the Trustee will promptly place all funds intended for that creditor on reserve.

B. No funds will be distributed to any purported assignee or transferee without a transferred proof of claim filed in accordance with Fed.R.Bankr.P. 3001 (e) and notice issued in accordance therewith by the Clerk of Bankruptcy Court, with an opportunity to object.

C. The transferred proof of claim shall contain sufficient information as to instruct the Chapter 13 Trustee and debtor as to the case number, the claim to be paid, the nature of the collateral supporting the claim and the appropriate address for payment. The assignee or transferee shall attach all assignments and authorizations for loan service applicable to the transfer in order to support the claim. The debtor, debtor's counsel and the trustee shall all be served with copies of the transfer.

Procedure #11 - Service on Chapter 13 Trustee

Filers shall not serve the Chapter 13 trustee with a paper copy of any document filed with the Court including hearing notices. The Clerk sends an electronic file to the Chapter 13 trustee each day that contains documents filed in all cases in which the Chapter 13 trustee is a party. The Chapter 13 trustee does not receive e-mails of case activity by means of the Court's electronic filing system. Filing Users should disregard the statement on the Notice of Electronic Filing that indicates that the Chapter 13 trustee will not receive electronic notification.

Procedure #12 – Meeting of Creditors – Timing of Documents and Information to Trustee

The debtor(s) shall provide the Trustee, at least 7 days before the date set for the §341 meeting of creditors the following:

1. Proof of Current Monthly Income [11 USC §101-10A] – Wage Earner - Pay stubs for the six months prior to the petition date or certification by employer for the same period. A summary describing the gross income and the detailed deductions must be included with the pay stubs.
2. Proof of Current Monthly Income [11 USC §101-10A] – Self Employed – In lieu of a pay stub the self employed debtor shall provide the Trustee, for the period of six months prior to the petition date, copies of bank account statements and copies of an affidavit or declaration under penalty of perjury from debtor indicating his income and explaining the non existence of a bank account and/or credit card statements. (This procedure does not modify debtor's duty to comply with 11 USC §521(a)(1)(B)(iv) or to request a waiver from the Court.)
3. If Debtor is Above the Median Income – debtor shall provide the Trustee documentation demonstrating actual expenses claimed as deductions in Form B22C over the applicable IRS Tables of Expenses.
4. Copy of any and all Income Tax Returns required under applicable law (or, at the election of the debtor, a transcript of such returns) for all taxable periods ending during the (4) four year period ending on the date of the filing of the petition. If a return was not filed, the debtor shall submit statement with the trustee within the same period, which informs the trustee that a tax return is not available and the reason.
5. Domestic Support Obligation Claim Holders – In accordance with LBR 1007-5, debtors in Chapter 13 who are subject to a Domestic Support Obligation, shall, provide name, address and phone numbers for all Domestic Support Obligation claim holders. If residing outside USVI also the name, address and phone number of related DSO Agency.

6. DSO Certification of Current Post Petition Payments – DSO Agency or equivalent Certification that debtor is current on her/his post petition DSO payment obligations
7. The information required in this Procedure is necessary for the Trustee compliance with 11 USC §1302(b)(1), hence debtor's failure to provide the same will amount to a failure to comply with his/her duty to the Trustee under 11 USC §521(a)(3) and may also constitute cause under 11 USC §1307(c) for the dismissal or conversion of the case to another chapter.

Procedure #13 - Continued Conciliation Conferences

A. If the Chapter 13 trustee determines during the initial conciliation conference that a continuance is necessary, the trustee shall announce to the parties in attendance the time, date, and location of the rescheduled Chapter 13 conciliation conference.

B. The case docket shall reflect the time, date, and location of any rescheduled Chapter 13 conciliation conference date that is continued by the Chapter 13 trustee during the conference. Generally, parties must review the case docket to determine if an entry has been made rescheduling the conciliation conference. Attorneys filing electronically in a case shall receive in electronic form a Notice of Electronic Filing from the Clerk that includes the docket entry reflecting the continued time, date and location of the conciliation conference.

C. This procedure will apply only to plan conciliation conferences continued at the 341 meeting. The deadline for filing objections to the plan will appear in the docket entry.

Procedure #14 - Wage Orders in Chapter 13 Cases

A. Standard Wage Attachment Motion and Order: When the Standing Chapter 13 Trustee or the Chapter 13 debtor files a motion for a wage attachment order, the motion must substantially conform to the Ex Parte Motion for Order to Pay Trustee Pursuant to Wage Attachment Local Form No. 11 and include an Order to Pay Trustee Pursuant to Wage Attachment.

B. Single Debtor: When a bankruptcy case is filed by one debtor, "Motion No. WO-1" shall be included in the caption of the Motion for Wage Attachment and the proposed order. Any motion to amend shall include "Motion No. WO-1" in the caption.

C. Joint Debtors: When a joint case is filed, the name of the debtor whose wages are to be attached shall be stated in the caption of the motion and in the proposed order. "Motion No. WO-1" shall be included in the caption of the first joint debtor requesting a wage attachment. "Motion No. WO-2" shall be included in the caption of a subsequent motion requesting a wage attachment filed by the other joint debtor.

D. Amendments of Motions for Wage Attachment:

1. Any motion to amend a wage attachment must be at the original motion number for the first or second joint debtor (WO-1 or WO-2) and shall be marked "Amended Motion for Wage Attachment" in the caption.

2. Any motion to amend the amount of the wage deduction shall request only an increase in the amount to be attached.

E. More than One Employer: If a debtor has more than one employer, separate wage attachment motions and proposed orders granting the requested relief must be filed for each employer from whom wages are to be attached. A motion naming more than one employer as a respondent will be dismissed without prejudice for failure to comply with this Local Rule.

F. Calculation of Dollar Amount of the Attachment: If the payroll period is unknown, use monthly basis. If the payroll period is known, calculate as follows:

Weekly (52 pays/year)	amount to be attached multiplied by 12 then divided by 52 (round upwards)
Biweekly (26 pays/year)	amount to be attached multiplied by 12 then divided by 26 (round upwards)
Semi-monthly (24 pays/year)	amount to be attached divided by 2 (round upwards)

Procedure #15 - Sale Of Property Without Publication

The publication requirement (GCP #3.F.2) will be waived and a private sale permitted when sufficient funds from the sale will be designated to the payment of 100% of the allowed claims. A stipulation signed by debtor's counsel and the Chapter 13 trustee to sell property without publication shall be served on all parties in interest including the creditors and lien holders.